

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

CECIL L. CHANCELLOR,

Plaintiff,

:

Case No. 3:06-cv-156

-vs-

District Judge Thomas M. Rose
Chief Magistrate Judge Michael R. Merz

:

CITY OF DAYTON, OHIO, et al.,

Defendants.

REPORT AND RECOMMENDATIONS

This case was referred to the undersigned as part of the Preliminary Pretrial Order on October 3, 2006 (Doc. No. 7) from that date until the discovery cut-off of September 18, 2007. On May 30, 2007, the Court reminded the parties that Plaintiff had not disclosed either lay or expert witnesses.

As of the date of this Report, Plaintiff has not corrected those deficiencies in his compliance with the Preliminary Pretrial Order in this case. Accordingly, it is respectfully recommended that this action be dismissed without prejudice, pursuant to Fed. R. Civ. P. 16(f), for repeated failure to comply with the Preliminary Pretrial Order.

August 29, 2007.

s/ **Michael R. Merz**
Chief United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within ten days after being served with this Report and Recommendations. Pursuant to Fed. R. Civ. P. 6(e), this period is automatically extended to thirteen days (excluding intervening Saturdays, Sundays, and legal holidays) because

this Report is being served by one of the methods of service listed in Fed. R. Civ. P. 5(b)(2)(B), (C), or (D) and may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendations are based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within ten days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F. 2d 947 (6th Cir., 1981); *Thomas v. Arn*, 474 U.S. 140, 106 S. Ct. 466, 88 L. Ed. 2d 435 (1985).